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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

YELLOWCAKE, INC., California
corporation,

Plaintiff,

v.

HYPHY MUSIC, INC.,

Defendant.

Case No.: 1:20-cv-00988-AWI-BAM

[Assigned to the Hon. Jennifer L. Thurston]

**DECLARATION OF ABHAY KHOSLA
IN SUPPORT OF HYPHY MUSIC,
INC.'S OPPOSITION TO PLAINTIFF
AND COUNTER-DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT
AND SUMMARY ADJUDICATION**

HYPHY MUSIC, INC.,

Counterclaimant,

v.

YELLOWCAKE, INC.; COLONIZE
MEDIA, INC; JOSE DAVID
HERNANDEZ; and JESUS
CHAVEZ SR,

Counter-Defendants.

Date: September 29, 2023
Time: 9:00 a.m.
Dept.: Courtroom 4 (7th Floor)
2500 Tulare Street
Fresno, CA 93721
Judge: Hon. Jennifer L. Thurston

DECLARATION OF ABHAY KHOSLA

I, Abhay Khosla, declare and state as follows:

1. I am an individual currently residing in Los Angeles, California, and am over 18 years of age. I am an attorney with the Sherman Law Group, counsel of record for Defendant and Counterclaimant Hyphy Music, Inc. (“**Hyphy**”) I know all of the following facts of my own personal knowledge and, if called upon and sworn as a witness, could and would competently testify thereto.

2. I have reviewed a copy of the Declaration of Jose David Hernandez (the “**Hernandez Declaration**”) and Exhibit A attached thereto, which was filed in the instant case of Yellowcake Inc. v. Hyphy Music, USDC Case No. 1:20-CV-00988 (the “**Hyphy Lawsuit**”).

3. In the Hernandez Declaration, Mr. Hernandez claims that Daddy Kool Records received copies of the Albums at issue in the Hyphy Lawsuit “from Morena”. Mr. Hernandez identifies the Albums at issue in the Hyphy Lawsuit in paragraph 7 of his Declaration as follows:

“...(i) *Los Originales de San Juan- El Campesino*; (ii) *Los Originales de San Juan-Corridos de Poca M*; (iii) *Los Originales de San Juan-En Vivo Desde La Cantina de Mi Barrio*; (iv) *Los Originales de San Juan- Nuestra Historia En Vivo*; (v) *Los Originales de San Juan- Amigos y Contrarios*; and (vi) *Los Originales de San Juan-Naci Con Suerte de Rey Con Mariachi (hereinafter the “Albums”)[.]*”

4. Mr. Hernandez appears to rely upon Exhibit A to his declaration, an e-mail from third party “Audible Magic” responding to a question from Jeremy Paulson asking about UPC Numbers 821691353127, 821691351628, and 81691350324 (the “**Hernandez UPC Numbers**”).

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1 6. In order to investigate this claim, I went to a website called Barcode
2 Lookup <available at www.barcodelookup.com>, which states on its homepage “At
3 Barcode Lookup, you get product information, photos and store pricing for millions
4 of items worldwide—just by typing in the item’s barcode number. We leverage the
5 power of our gigantic database of barcodes and product data, sourced from big
6 retailers and e-commerce sites all over the world, to bring you clear, useful info on
7 any product you’re interested in.”

8 7. I typed in the first of the three Hernandez UPC Numbers,
9 821691353127, into Barcode Lookup. A true and correct copy of the results is
10 attached hereto as **Exhibit “A”**, evidencing that the first of the three Hernandez
11 UPC Numbers refers to an album entitled “*Celebrando 39*.” As can be seen by
12 paragraph 7 of the Hernandez Declaration, and as quoted above, this is not one of
13 the Albums at issue in the Hyphy lawsuit.


14 8. I typed in the second of the three Hernandez UPC Numbers,
15 821691351628, into Barcode Lookup. A true and correct copy of the results is
16 attached hereto as **Exhibit “B”**, evidencing that the second of the three Hernandez
17 UPC Numbers refers to an album entitled “*15 Corridos Inmortales*.” As can be seen
18 by paragraph 7 of the Hernandez Declaration, and as quoted above, this is not one of
19 the Albums at issue in the Hyphy lawsuit.

20 9. I typed in the third of the three Hernandez UPC Numbers,
21 81691350324, into Barcode Lookup. A true and correct copy of the results is
22 attached hereto as **Exhibit “C”**, evidencing that the third of the three Hernandez
23 UPC Numbers refers to an album entitled “*50 Mentadas*.” As can be seen by
24 paragraph 7 of the Hernandez Declaration, and as quoted above, this is not one of
25 the Albums at issue in the Hyphy lawsuit.

26 10. I have reviewed the Exhibits to the Amended Counterclaim and the
27 copyright infringement claim set forth there not based on any of the albums attached
28 as Exhibits “A” through “C” to the Hernandez Declaration.

1 I declare under penalty of perjury under the laws of the State of California
2 and United States of America that the foregoing is true and correct, and that this
3 Declaration was executed on August 14, 2023, at Beverly Hills, California.

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ABHAY KHOSLA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing electronically filed document has been served via a “Notice of Electronic Filing” automatically generated by the CM/ECF System and sent by e-mail to all attorneys in the case who are registered as CM/ECF users and have consented to electronic service pursuant to L.R. 5-3.3.

Dated: August 15, 2023

By: /s/ John Begakis
John M. Begakis

EXHIBIT “A”



Enter a barcode number or search term

Search



UPC 821691353127

[EDIT PRODUCT](#)

Celebrando 39

★★★★★ (Write a Review)

Share:

Barcode Formats: UPC-A 821691353127, EAN-13 0821691353127

Category: Media

Artist: Los Originales De San Juan

EXHIBIT “B”

[Q Search](#)**UPC 821691351628**[EDIT PRODUCT](#)**15 Corridos Inmortales**

★★★★★ (Write a Review)

Share: [f](#) [t](#) [p](#) [r](#)**Barcode Formats:** UPC-A 821691351628, EAN-13 0821691351628**Category:** Media**Artist:** 15 Corridos Inmortales

EXHIBIT “C”



Enter a barcode number or search term

 Search

image not
available

UPC 821691350324

EDIT PRODUCT 

50 Mentadas

★★★★★ (Write a Review)

Share:    

Barcode Formats: UPC-A 821691350324, EAN-13 0821691350324

Category: Media

Artist: Los Originales De San Juan